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May 21, 2020

By ECF

Honorable Stewart D. Aaron
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Bento v. New York City Dep't of Citywide Admin. Servs.
19 Civ. 5003 (LTS) (SDA)

Dear Judge Aaron:

I am an Assistant Corporation Counsel in the office of James E. Johnson, Corporation Counsel for the City of New York, attorney for defendant New York City Department of Citywide Administrative Services ("DCAS") in the above-referenced action. The parties jointly submit this request to adjourn the Initial Pretrial Conference presently scheduled for May 26, 2020 for thirty days, until June 26, 2020. This is the parties' third request for an adjournment of the conference. The adjournment does not affect any other scheduled dates.

On August 23, 2019, defendant filed a motion to dismiss the complaint in its entirety (Dkt. Nos. 11-13). On September 4, 2019, the parties jointly requested that the initial conference then-scheduled for September 19, 2019, be adjourned until such time as defendant's motion to dismiss is decided (Dkt. No. 14). On September 5, 2019, this Court granted the parties' request, and adjourned the conference until February 19, 2020 (Dkt. No. 15). On February 10, 2020, the parties again jointly requested that the conference be adjourned (Dkt. No. 21), and this Court adjourned the conference until April 28, 2020 (Dkt. No. 22). On March 24, 2020, this Court issued a memorandum opinion and order granting defendants' motion to dismiss the Complaint in its entirety, and permitted plaintiff until May 8, 2020, to file a motion to amend the Complaint (Dkt. No. 24). On April 6, 2020, the Court sua sponte adjourned the April 28, 2020 initial conference until May 26, 2020 (Dkt. No. 25). On May 8, 2020, plaintiff requested an extension of time to file a motion to amend the Complaint until May 22, 2020 (Dkt. Nos. 26-27), and that request was granted (Dkt. No. 28).

The parties request that the May 26, 2020 initial conference be adjourned thirty days because the parties are not yet prepared to submit a case management plan to the Court or to discuss discovery. First, plaintiff has not yet filed his motion to amend the Complaint. As there is no operative pleading and no operative claims, it would be premature to plan for discovery. Second, as plaintiff's anticipated motion to amend has not been filed or fully briefed, the parties

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do not know whether the Court will grant the motion. Should the Court deny plaintiff's motion to amend the Complaint, the initial conference and discovery will be rendered unnecessary.

Third, defendants anticipate that, should plaintiff's motion to amend be granted, defendants will seek to file a motion to dismiss the Amended Complaint. In that case, the parties agree that judicial economy and efficiency would best be served by adjourning the initial conference and staying discovery until such time as defendants' motion to dismiss is heard and decided by the Court.

For these reasons, the parties jointly and respectfully request that the initial conference currently scheduled for May 26, 2020, be adjourned to June 26, 2020.

Thank you for your consideration of this request.

Respectfully submitted,

/s/ Leo T. Ernst

Leo T. Ernst

Assistant Corporation Counsel

cc: Ballon Stoll Bader & Nadler, P.C.
(By ECF)

Application GRANTED. The Initial Pretrial Conference scheduled for May 26, 2020 is hereby adjourned until June 26, 2020 at 2:00 p.m., also via telephone. At the scheduled time, the parties shall each separately call (888) 278-0296 (or (214) 765-0479) and enter access code 6489745. SO ORDERED.
Dated: May 21, 2020

